

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
EASTERN DIVISION

BOND PHARMACY INC., d/b/a AIS
HEALTHCARE,

Plaintiff,

vs.

ANTHEM HEALTH PLANS OF
VIRGINIA, INC. d/b/a ANTHEM
BLUE CROSS AND BLUE SHIELD,

Defendants.

Case No. 2:23-mc-51368-LVP-DRG

District Judge: Hon. Linda V. Parker
Magistrate Judge: Hon. David Grand

**DECLARATION OF
CLINTON MIKEL**

(E.D. Va. Case No. 1:22-cv-01343-
CMH-IDD) (Hon. Claude M. Hilton)

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DECLARATION OF CLINTON MIKEL

I, Clinton Mikel, do hereby declare the following to be true and correct to the best of my knowledge, information and belief.

1. I am a resident of Michigan. I am over the age of eighteen and am competent to provide this Declaration.

2. I am licensed to practice law in the State of Michigan and appear before this Court. I am a partner at The Health Partners, P.C.

3. Upon receipt of the Subpoena, (EXHIBIT 1 below), I worked diligently and tirelessly with Plaintiff, AIS, regarding search parameters, deposition parameters, and to provide responsive documents.

4. Orally, counsel for AIS represented to me that if an HLP representative were to sit for a deposition that AIS would not inquire about, and had no interest, in HLP's client(s) name(s), or other privileged matters.

5. Based on this explicit oral representation made by AIS's counsel, that no inquiry would be made regarding the identity of HLP's client, HLP agreed to and promptly produced Robert Dindoffer, Esq., to sit for a September 1, 2023 deposition without filing a Motion to Quash/seeking a Protective Order.

6. On behalf of HLP, I promptly and fully provided all relevant, non-privileged information, finalizing our production on August 21, 2023.

7. 11 days lapsed with AIS having the entirety of HLP's document production. AIS raised no issues regarding the document production.

8. At the September 1, 2023, deposition it became clear, near the outset that counsel for AIS had mislead HLP's counsel and was not honoring their oral representations/promises . AIS did the polar opposite of what they represented – the entire purpose of the deposition was to seek privileged, non-relevant, information – the name of HLP's third-party client.

9. Blindsided by AIS's misrepresentations, during the deposition I, as HLP's counsel, raised various valid attorney-client privilege objections and instructed the HLP witness to refuse to answer on FRCP 30(c)(2) bases ("A person may instruct a deponent not to answer only when necessary to preserve a privilege...").

10. HLP and Mr. Dindoffer are in the process of retaining outside counsel to address Plaintiff's motion in chief, which seeks to invade the attorney-client privilege of a non-party to Plaintiff's case.

11. Attached to this declaration are the following exhibits, of which I have personal knowledge.

- a. **EXHIBIT 1** – Subpoena issued by Plaintiff in E.D. Va. Case No. 1:22-cv-01343-CMH-IDD) (Hon. Claude M. Hilton)
- b. **EXHIBIT 2** – Order of Hon. Claude M. Hilton, Dated July 17, 2023, showing end of fact discovery as September 12, 2023.
- c. **EXHIBIT 3** – Joint Motion, Dated June 28, 2023, for extension of deadlines.
- d. **EXHIBIT 4** – Plaintiff's motion to Extend Fact Discovery, dated September 11, 2023 (Exhibits Omitted).

e. **EXHIBIT 5** – Docket in E.D. Va. Case No. 1:22-cv-01343-CMH-IDD)
(Hon. Claude M. Hilton), as of September 12, 2023.

In accordance with 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

/s/Clinton Mikel

September 12, 2023

Name: Clinton Mikel

Date

CERTIFICATE OF SERVICE

I certify that on September 12 , 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send email notification of electronic filing to counsel for all parties of record.

s/Clinton Mikel

Clinton Mikel

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